

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Mr. Mark Adkins

Plaintiff,

v.

Nickwon Arvinger,
By Kiy, LLC,
By Kiy Online, LLC
Kiy Studios, LLC

Defendant.

CASE NO.: 23-00061-RDA-LRV

ATTORNEY'S FEES DECLARATION

Mark Adkins, by and through his undersigned counsel, respectfully move this Court for reasonable attorney's fees and costs in the amount of (\$22,026.87), pursuant to the Court's Order dated April 23, 2024 ECF No. 76.

1. I am an attorney duly licensed to practice law in the States of Maryland and District of Columbia. I am admitted to practice pro hac vice in the Eastern District of Virginia for this action. I am an attorney of record for Plaintiff Mark Adkins. Having personal knowledge of the facts discussed herein and being able to testify competently thereto, if necessary, I submit this declaration.

2. I have been licensed to practice law in courts of the state of Maryland and the District of Columbia since 1990 and 1993, respectively. I have been admitted to practice in this

matter *pro hac vice*. ECF No. 14. Further, I am a patent attorney registered to practice before the United States Patent and Trademark Office. My billing rate is \$500 per hour.

3. I am a founding member of Cahn & Samuels, LLP (“C&S”) which is an intellectual property boutique law firm located in Washington, D.C. The attorneys of C&S have extensive experience in all areas of intellectual property including litigation in the area of trademarks, patents, copyrights, trade secrets and related disciplines.

4. I respectfully submit this Declaration pursuant to this Court’s Order dated April 23, 2024 (ECF No. 76, the “Order”), wherein the Court awarded Mr. Adkins reasonable attorney’s fees incurred in bringing the Motion to Show Cause (ECF No. 55), the Motion to Compel Compliance (ECF No. 60) and Motion for Continued Contempt (ECF No. 73) (collectively “The Motions”) and instructed Mr. Adkins to submit a statement of reasonable fees and costs.

5. A statement of such fees and costs is set forth in Exhibit A attached hereto. Exhibit A includes time logged by my law partner, Warren Zitlau. Mr. Zitlau is licensed to practice law in the States of Virginia, New York and the District of Columbia since 1996, 1994 and 1994, respectively. Further, Mr. Zitlau is a registered patent attorney and is a member of the bar of this Court. Mr. Zitlau’s billing rate is \$500 per hour.

6. Exhibit A also includes time logged by C&S’ former Legal Fellow, Jacob Linker. Mr. Linker is a May 2022 graduate of the George Washington School of Law and was admitted to practice in Maryland on May 25, 2023. Mr. Linker’s billing rate was \$225 per hour.

7. Exhibit A further includes time logged by C&S’ current Legal Fellow, Min-Soo Choi. Mr. Choi was admitted to practice in Virginia on December 6, 2023. Mr. Choi is also a registered patent attorney. Mr. Choi’s billing rate is \$240 per hour.

8. The hourly rates for all persons identified in Exhibit A are the typical and usual hourly rates charged by each employee of C&S that has worked on this matter. These hourly rates were not inflated, extraordinary, or excessive in any way.

9. I have reviewed the billing records for the fees and costs that C&S has incurred on behalf of Mr. Adkins in bringing and prosecuting both the Motions. Exhibit A reflects a reasonable number of hours at a reasonable hourly rate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 14th day of May 2024 at the District of Columbia

Respectfully submitted,
By: /s/ Frederick Samuels
Frederick N. Samuels (pro hac vice)
Attorneys for Mark Adkins
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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May, 2024, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system. I will then send the document and a notification of such filing (NEF) to the following party via first class mail, postage prepaid and via email:

Mr. Nickwon Arvinger
By Kiy, LLC
By Kiy Online, LLC
Kiy Studios, LLD
7221 Kennedy Boulevard
Suite A
North Bergen, NJ
804) 775-3100 Telephone
(804) 775-3800 Facsimile
b@sicadesign.com
originalsog@gmail.com
Defendants

/s/ Warren A. Zitlau _____
Warren Arthur Zitlau
Cahn & Samuels, LLP
1100 17th St., NW
Suite 401
Washington, D.C. 20036
202 331-8777 telephone
202 331-3838 facsimile
warren.zitlau@cahnsamuels.com

Exhibit A

Timekeeper	Time Spent	Rate Value	Price	Slip Value	Transaction Date	Description
FNS	0.20	\$500.00		\$100.00	9/11/2023	Preparing correspondence to opposing counsel regarding Defendant's failure to make first payment under the Settlement Agreement.
WAZ	0.25	\$500.00		\$125.00	9/12/2023	Electronically filing Status Update with the Court.
FNS	0.30	\$500.00		\$150.00	9/12/2023	Preparing status report regarding Defendants' compliance with settlement terms.
FNS	0.30	\$500.00		\$150.00	9/14/2023	Reviewing correspondence from Z. Kurtz, counsel for Defendants, regarding request for modification of settlement payment schedule and responding to same.
FNS	0.60	\$500.00		\$300.00	9/20/2023	Preparing draft joint motion for entry of consent judgment and forwarding same to opposing counsel.
FNS	0.30	\$500.00		\$150.00	9/20/2023	Preparing correspondence to counsel regarding Defendants compliance with terms of settlement.
WAZ	0.20	\$500.00		\$100.00	9/21/2023	Electronically filing Joint Motion for Entry of Consent Judgment with the Court.

Timekeeper	Time Spent	Rate Value	Price	Slip Value	Transaction Date	Description
FNS	0.25	\$500.00		\$125.00	9/22/2023	Reviewing correspondence from Z. Kurtz, counsel for Defendants, regarding Defendants's lack of compliance with settlement agreement and responding to same.
FNS	0.12	\$500.00		\$60.00	9/25/2023	Providing status update to client.
FNS	0.48	\$500.00		\$239.17	9/29/2023	Preparing correspondence to Z. Kurtz and M. Haynes re: consent judgment violation.
FNS	1.70	\$500.00		\$848.61	10/6/2023	Conducting legal research regarding remedies available for violation of consent judgment.
FNS	4.50	\$500.00		\$2,250.97	10/9/2023	Drafting motion for contempt and enforcement of settlement agreement.
FNS	7.00	\$500.00		\$3,500.00	10/11/2023	Continuing to draft motion for enforcement of settlement agreement.
FNS	5.00	\$500.00		\$2,500.00	10/12/2023	Continuing to draft motion for contempt.
FNS	1.35	\$500.00		\$675.00	10/18/2023	Revising contempt memorandum and finalizing.
FNS	0.60	\$500.00		\$300.00	10/18/2023	Drafting contempt motion.
FNS	1.00	\$500.00		\$500.00	10/18/2023	Preparing Samuels Declaration.

Timekeeper	Time Spent	Rate Value	Price	Slip Value	Transaction Date	Description
FNS	0.30	\$500.00		\$150.00	10/18/2023	Preparing draft Linker declaration.
FNS	6.50	\$500.00		\$3,250.00	10/18/2023	Preparing motion to compel compliance with consent judgment and settlement agreement.
WAZ	0.20	\$500.00		\$100.00	10/19/2023	Electronically filing Motions and related documents with the Court.
FNS	1.50	\$500.00		\$750.00	10/19/2023	Revising and finalizing Memorandum in support of Motion to Compel Compliance. Reviewing Defendants' Instagram feed and revising and finalizing Samuels Declaration.
GAM	cost		\$19.07	\$19.07	11/3/2023	Overnight shipping charges
GAM	cost		\$35.36	\$35.36	11/7/2023	Overnight shipping charges
FNS	0.20	\$500.00		\$100.00	11/10/2023	Preparing and forwarding Notice and Cure email for lack of payment.
FNS	1.90	\$500.00		\$950.00	11/27/2023	Preparing draft status report.
FNS	0.74	\$500.00		\$367.64	11/28/2023	Revising Status report.
WAZ	0.25	\$500.00		\$125.00	11/28/2023	Electronically filing Status Report with the Court.

Timekeeper	Time Spent	Rate Value	Price	Slip Value	Transaction Date	Description
19FNS	0.12	\$500.00		\$60.00	11/28/2023	Reviewing email from Mr. Sica regarding disposition of SBC Logo patches and promise of upcoming payment and responding to same.
TMV	0.75	\$100.00		\$75.00	11/30/2023	Opening and counting support black colleges patches with J. Linker. Meeting with F. Samuels regarding results.
JAL	0.75	\$225.00		\$168.75	11/30/2023	Reviewing delivered 'Support HBCU' patches for accuracy in quantity and recording the process thereof. Counting them one by one to ensure the appropriate number was provided in accordance with the settlement agreement.
JAL	0.50	\$225.00		\$112.50	11/30/2023	Listening in on call with Sicca; taking notes
JAL	3.50	\$225.00		\$787.50	11/30/2023	Piercing corporate veil
FNS	2.20	\$500.00		\$1,100.00	11/30/2023	Preparing for hearing regarding show cause for contempt.
FNS	0.20	\$500.00		\$100.00	11/30/2023	Teleconference with B. Sica re: need for attendance at show cause hearing and proposal to make payment to avoid need for hearing.

Timekeeper	Time Spent	Rate Value	Price	Slip Value	Transaction Date	Description
JAL	2.00	\$225.00		\$450.00	12/1/2023	Participating in hearing before the Eastern District of Virginia (sitting and observing).
JAL	5.00	\$225.00		\$1,125.00	12/1/2023	Corporate form / piercing of corporate veil.
WAZ	cost		\$29.90	\$29.90	12/1/2023	Ground Transportation
FNS	0.52	\$500.00		\$258.33	12/1/2023	Participating in hearing before Judge Vaala
FNS	0.82	\$500.00		\$408.33	12/1/2023	Traveling to EDVA court house.
FNS	0.45	\$500.00		\$225.00	12/1/2023	Traveling from EDVA courthouse to office
FNS	cost		\$6.00	\$6.00	12/1/2023	Parking Fees for travel
JAL	6.75	\$225.00		\$1,518.75	12/4/2023	Conducting legal research regarding insulation from liability through corporate form in 4th Circuit
FNS	0.77	\$500.00		\$385.00	12/5/2023	Preparing Status report updating the Court regarding By Kiy's failure to make promised payment and regarding failure to provide identity of seamstress and discrepancy as to the manner in which the patches were allegedly removed from the jackets.
WAZ	0.20	\$500.00		\$100.00	12/5/2023	Electronically filing Status Request with the Court.

Timekeeper	Time Spent	Rate Value	Price	Slip Value	Transaction Date	Description
FNS	0.20	\$500.00		\$100.00	1/3/2024	Preparing correspondence to N. Arvinger regarding Judge Vaala's Order and his personal responsibility for damages.
FNS	0.30	\$500.00		\$149.44	1/4/2024	Preparing correspondence to B. Sica regarding acknowledgement of payment and request for contact information for Nickwon Arvinger.
WAZ	0.20	\$500.00		\$100.00	1/9/2024	Electronically filing Status Report with the Court.
FNS	0.25	\$500.00		\$125.00	1/9/2024	Preparing status report.
FNS	0.10	\$500.00		\$50.00	3/5/2024	Preparing correspondence to B. Sica acknowledging receipt of payments.
FNS	0.10	\$500.00		\$50.00	3/13/2024	Preparing correspondence to B. Sica acknowledging receipt of payments.
FNS	0.75	\$500.00		\$375.00	4/9/2024	Conducting legal research regarding motion for continued contempt.
FNS	1.10	\$500.00		\$550.00	4/15/2024	Conducting legal research regarding motion for continued contempt regarding remedies.

Timekeeper	Time Spent	Rate Value	Price	Slip Value	Transaction Date	Description
MBC	0.53	\$240.00		\$127.67	4/16/2024	Preparing discovery materials, namely, using Page Vault to take screen captures of Instagram pages and investigating assorted links posted on Instagram page, and By-Kiy active storefronts.
FNS	3.60	\$500.00		\$1,800.00	4/16/2024	Preparing motion and memo for continued contempt
FNS	3.30	\$500.00		\$1,650.00	4/17/2024	Revising motion for continued contempt including rewriting facts section and preparing Samuels declaration.
WAZ	0.30	\$500.00		\$150.00	4/18/2024	Reviewing and electronically filing Motion and related documents with the Court.
TOTOALS	60.06		90.33	\$21,936.54		